

## BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

July 16, 2008

**Meeting** Mr. Poff called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m.

**Roll Call** Roll call showed the following Board Members present: Ron Poff, Stacy Wall, John Borchers and David Berrett. Others in attendance: City Planner/Zoning Administrator Matthew Spring, and Board Secretary Kimberly Patterson.

Citizens attending the meeting: Tom Davidson, Jan Davidson, and William Roop.

**Board Minutes  
6-2-08** Chairman Poff asked for discussion. There being none, Mrs. Wall **moved to approve the June 2, 2007, meeting minutes as written**, seconded by Mr. Borchers. **Motion carried.** Ayes: Wall, Borchers, Berrett, and Poff. Nays: None.

**Chairman's  
Introduction** Chairman Poff explained the guidelines and procedures for the meeting and public hearings. He advised the applicants that a decision of the Board could be appealed to City Council within 10 days. If the Board granted the applicant's request, the applicant may file the appropriate permits after the 10-day waiting period has expired.

**Citizen Comments** There were no citizen comments on items not on the agenda.

**Administration of  
Oath** Mrs. Patterson, notary, swore in citizens wishing to speak and Mr. Spring.

### **New Business**

**New Business  
Case No. 14-08  
Davidson  
Structure  
Variance Request** **A. Case No. 14-08: Thomas Davidson - 657 Burnside Drive, Tipp City - Inlot: 3685** – The applicant requested a variance of 318 square feet to the maximum gross floor area for an accessory structure for storage incidental to a principal permitted residential use.  
**Present Zoning District:** PR – Planned Residential Subdivision  
**Zoning Code Section(s):** §154.059(A)(2)

Mr. Spring stated that the applicant requested a variance of 318 square feet to the maximum gross floor area for an accessory structure for storage incidental to a principal permitted residential use noted in Code §154.059(A)(2). The structure in question was a 14' x 20' (280 sq. ft.) shed with an additional 5' x 14' (70 sq. ft.) porch on the southern façade and a 12' x 14' (168 sq. ft.) porch on the eastern facade, thus the structure footprint was 518 square feet.

Code §154.059(A)(2) states:

(A) *Permitted accessory uses (Residential Districts). The following accessory uses are permitted in each Residential District.*

(2) *A structure for storage incidental to a permitted use provided no such structure that is accessory to a residential building, shall exceed 200 square feet in gross floor area.*

Mr. Spring also stated that the applicant proposed a shed with a total gross floor area (footprint) of 518 square feet; therefore a variance of 318 square feet was required (518 – 200 = 318).

Mr. Spring explained the procedural requirements to grant the variance in this case as outlined in Sections §154.175(E)(1)&(9) §154.175(C) and §154.175(D) of the Tipp City Code of Ordinances.

Mr. Spring mentioned the following additional notes regarding the case:

- There was a 5' utility easement along the western property line, a 25' easement running through the center of the rear yard, and a 10' utility easement along the northern property line. The shed will not encroach into any of these easements.
- The proposed shed would be constructed of brick to mirror the exterior of the primary structure (home)

Mr. Tom Davidson, 657 Burnside Drive, approached the dais.

Board Members found the following regarding the case: 280 sq. ft. shed (20 x 14); shed would have two porches to add additional 230 sq. ft. to the overall structure; structure would have the same exterior of brick and shingles to match the existing home; both porches would be covered; structure would have French doors; the door shown on plans would actually be a window.

Mrs. Patterson stated there were no neighbors comments received.

Chairman Poff asked for further discussion. There being none, Mrs. Wall moved to grant a variance of 318 square feet to the maximum gross floor area for an accessory structure for storage incidental to a principal permitted residential use noted in Code §154.059(A)(2) for the construction of a detached accessory structure (shed) located at the single family residence at 657 Burnside Drive, seconded by Chairman Poff. **Motion carried.** Ayes: Wall, Poff, Borchers, and Berrett. Nays: None.

**Case No. 15-08  
Roop  
Driveway  
Variance  
Requests**

**B. Case No. 15-08: William Roop - 405 W. Kessler-Cowlesville Rd., Tipp City - Inlot: IL 2460** – the applicant requested a variance of 11" to Code §154.061(l) to allow a residential access drive 5' 1" from the side property line rather than the required six (6) feet.

**Present Zoning District:** R-B – Suburban Residential Zoning District

**Zoning Code Section(s):** §154.061(l)

Mr. Spring stated that in conjunction with a proposed expansion of a residential driveway, the applicant requested a variance of 11" to Code §154.061(l) to allow a residential access drive 5' 1" from the side property line rather than the required six (6) feet.

Code §154.061(l) states:

*Residential access drives. Access drives within residential districts shall maintain a minimum setback distance of 6 feet from adjacent properties.*

Mr. Spring explained the procedural requirements to grant the variance in this case as outlined in Sections §154.175(E)(1)&(9) §154.175(C) and §154.175(D) of the Tipp City Code of Ordinances.

Mr. Spring mentioned the following additional notes regarding the case:

- The driveway addition had already been constructed

Mr. William Roop, 405 W. Kessler-Cowlesville Road, approached the dais.

Board Members found the following regarding the case: Mr. Roop had lived there for over 52 years; Mr. Roop was not aware of the requirement for a permit to install the driveway; Mr. Roop had received the "Resident's Guide" with his utility bill but discarded it; ingress and egress from the residence was a safety concern which was the reasoning for the driveway expansion; project was completed in May of 2008; Mr. Roop noted that all three of his vehicles were kept inside the garage and that the only reason for the expansion was for safety.

Mrs. Patterson stated there were no neighbor's comments received regarding this case.

Chairman Poff asked for further discussion. There being none, Mr. Berrett **moved to grant a variance of 11" to Code §154.061(l) to allow a residential access drive 5' 1" from the side property line rather than the required six (6) feet**, seconded by Mrs. Wall. **Motion carried.** Ayes: Berrett, Wall, Poff, and Borchers. Nays: None.

**Case No. 16-08  
Haas  
Setback Variance  
Request**

**C. Case No. 16-08: Deborah Haas - 317 S. Second Street, Tipp City - Lot: Inlot 394** – The applicant requested a variance of 4' to the required setback of 10' noted in Code §154.059(D)(5), which requires all detached accessory buildings not integrally joined to another accessory building to be located at least 10 feet from such other accessory structures.

**Present Zoning District:** R-2 – Urban Residential Zoning District

**Zoning Code Section(s):** §154.059(D)(5)

Mr. Spring read a letter submitted from the applicant as follows: "Dear Members of the Board of Zoning Appeals,

*I will be unable to attend the meeting on July 16<sup>th</sup> because of a*

previously planned trip to Washington State. Therefore, I am writing this letter in place of my presence. I would greatly appreciate you still hearing my case in this matter.

This letter is to request your approval of a variance allowing a six foot clearance between the placement of a shed and our existing garage. Granting this variance on our property will allow a well-constructed and aesthetically pleasing shed from Whispering Oaks to be delivered, thus improving the look and property value of our lot.

When we previously took down a dilapidated metal shed and cleaned up the area around the structure, we intended to put up an improved shed in its place. We did not realize there would be new zoning laws in place. It was only after I called the Tipp City planning office, that I realized we now needed a ten foot clearance to any existing building.

The accompanying pictures show the place where the shed was and hopefully will be again. As you can see, there is already concrete that would be boarding the front and right side of the shed. There is also plenty of room to move yard equipment and bicycles to and from the shed.

If the placement of a shed is granted, we would be able to move most of the contents of our garage into the structure, allowing the inside of the garage to be repaired and updated with new drywall, paint, and pegboards. Our vehicles could also be placed in the garage improving the look of our driveway and street front.

I realize you have the best interest of Tipp City in mind when you make your decisions. I hope you realize this can be an asset to our neighborhood. Thank you in advance for hearing my case. Respectfully, Mrs. Deborah Haas"

Mr. Spring stated that the applicant requested a variance of 4' to the required setback of 10' noted in Code §154.059(D)(5) in conjunction with the construction of an accessory structure (shed) located at 317 S. Second Street. If approved, the accessory structure would be 6' from another accessory building (an existing detached garage).

Code §154.059(D)(5) indicates:

*A detached accessory building not integrally joined to another accessory building shall be located at least 10 feet from such other accessory structure.*

Mr. Spring also stated that the applicants site plan indicated that the proposed shed would be six feet (6') from an existing detached garage; therefore a variance of four feet (4') was required ( $10 - 6 = 4$ ).

Mr. Spring explained the procedural requirements to grant the variances in this case as outlined in Sections §154.175(E)(1)&(9) §154.175(C) and §154.175(D) of the Tipp City Code of Ordinances.

Mr. Spring mentioned the following additional notes regarding the case:

- The proposed shed would be 8' x 8' (64 sq. ft.)
- A shed previously existed at the proposed location of the proposed shed, but had been previously removed, and thus lost its nonconforming status per Code § 154.136(E)(2) which states:  
*Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, it shall not be reconstructed except in conformity with the provision of this chapter;*
- There was no record of an approved Zoning Compliance Permit (ZCP) on file for the previously existing shed. Therefore, the applicant would be required to obtain an approved ZCP, if the requested variance was granted.
- The applicant had indicated that she would be unable to attend the meeting of July 16, 2008 and had formally requested in writing that the Board consider the case in her absence.

Chairman Poff stated that it was in his opinion not to hear cases when the applicant was not present and that it did not allow the Board the opportunity to directly ask questions. Mr. Poff proposed that the Board agree to require the applicant's presence in order to hear the case. Mrs. Wall stated that the process should be on a case by case basis and in a case like this one when the applicant was requesting that the Board move forward, she did not see any reason not to honor their request. Mrs. Wall also stated that if there were questions that a Board Member does not feel that they could rule then the proper response would be to move to table or deny the case, but it should not be a blanket rule for every case when the applicant was not present.

Board Members found the following regarding the case: the proposed shed would be placed in the exact same spot where the previous shed was; When the previous nonconforming shed was destroyed it lost its nonconforming status; there was not a permit on file for the original shed; Board Members reviewed the photos provided in their staff reports to determine the exact location of the shed to be placed directly over a patched area of grass where the old shed was removed.

Mr. Spring stated that one neighbor comment was received in letter form that stated the following: *"From Tom Roth, 309 S. Second, I have received a notice of public hearing on case 16-08 requesting a variance. In consideration of this item I see no logical reason as garbage trucks, electrical maintenance trucks can easily navigate the alley that you should not have my approval. In short I have no objections to the request. I will be at the hearing your support."*

Chairman Poff asked for further discussion. There being none, Mr. Borchers **moved to grant a variance of 6' to the required setback of 10' noted in Code §154.059(D)(5) in conjunction with the construction of a detached accessory structure (shed) located at 317 S. Second Street,** seconded by Mr. Berrett. **Motion carried.** Ayes: Borchers, Berrett, and

**Old Business**

Wall. Nays: Poff.

There was none.

**Miscellaneous**

There was none.

**Adjournment**

There being no further business, Chairman Poff **moved to adjourn the meeting**, seconded by Mr. Berrett and unanimously approved. **Motion carried.** Chairman Poff declared the meeting adjourned at 7:50 p.m.



Chairman Ron Poff

Attest:

  
Mrs. Kimberly Patterson, Board Secretary